

Senate File 2293 - Introduced

SENATE FILE 2293
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3166)

A BILL FOR

1 An Act relating to expunging convictions of certain criminal
2 offenses.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, subsection 5, Code 2009, is
2 amended to read as follows:

3 5. Upon the expiration of two years following conviction
4 for a violation of this section, a person may petition the
5 court to ~~exonerate the person of~~ expunge the conviction, and
6 if the person has had no other criminal convictions, other
7 than simple misdemeanor violations of chapter 321 during the
8 two-year period, the ~~person shall be deemed exonerated of~~
9 ~~the offense~~ conviction shall be expunged as a matter of law.
10 The court shall enter an order ~~exonerating the person of the~~
11 ~~conviction, and ordering~~ that the record of the conviction be
12 expunged by the clerk of the district court. Notwithstanding
13 section 692.2, after receipt of notice from the clerk of the
14 district court that a record of conviction has been expunged,
15 the record of conviction shall be removed from the criminal
16 history data files maintained by the department of public
17 safety.

18 Sec. 2. Section 123.47, Code 2009, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 7. Upon the expiration of two years
21 following conviction for a violation of subsection 2 or of a
22 similar local ordinance, a person may petition the court to
23 expunge the conviction, and if the person has had no other
24 criminal convictions, other than local traffic violations
25 or simple misdemeanor violations of chapter 321 during the
26 two-year period, the conviction shall be expunged as a matter
27 of law. The court shall enter an order that the record of the
28 conviction be expunged by the clerk of the district court.
29 Notwithstanding section 692.2, after receipt of notice from
30 the clerk of the district court that a record of conviction
31 has been expunged for a violation of subsection 2, the record
32 of conviction shall be removed from the criminal history data
33 files maintained by the department of public safety. An
34 expunged conviction shall not be considered a prior offense for
35 purposes of enhancement under subsection 3 or under a local

1 ordinance unless the new violation occurred prior to entry of
2 the order of expungement.

3

EXPLANATION

4 This bill relates to expunging certain criminal convictions.

5 The bill modifies provisions relating to expunging the
6 record of a conviction for public intoxication after two
7 years. Under the bill, two years after conviction for public
8 intoxication a person may petition the court to expunge the
9 record of the conviction if the person has not had other
10 criminal convictions other than simple misdemeanor violations
11 of Code chapter 321 during the two-year period. If the record
12 of conviction is expunged, the bill requires the department
13 of public safety to remove the record of conviction from the
14 criminal history data files of the department. Currently, a
15 person may petition the court to exonerate the person and have
16 the court enter an order exonerating the person as a matter of
17 law.

18 The bill establishes a similar expungement provision for
19 possessing, purchasing, or attempting to purchase alcohol
20 under legal age and for similar local ordinances. Under the
21 bill, two years after conviction for possessing, purchasing,
22 or attempting to purchase alcohol under legal age or under a
23 similar local ordinance, a person may petition the court to
24 expunge the record of the conviction if the person has not had
25 other criminal convictions other than local traffic violations
26 or simple misdemeanor violations of Code chapter 321 during the
27 two-year period. If the record of conviction is expunged for
28 a state violation, the bill requires the department of public
29 safety to remove the record of conviction from the criminal
30 history data files of the department. The bill also provides
31 that the expunged conviction for possessing, purchasing, or
32 attempting to purchase alcohol or for a local ordinance shall
33 not be considered a prior offense for purposes of enhancement
34 under state law or under a local ordinance unless the new
35 violation occurred prior to entry of the order of expungement.